

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 1850 OF 2014
WITH
CIVIL APPLICATION NO. 1851 OF 2014
IN
FIRST APPEAL (ST.) NO. 30053 OF 2013**

The Oriental Insurance Co. Ltd.

Thru Mumbai Third Party HUB

.. Applicant

Vs.

Mrs. Malanbee Gulab Shaikh & Anr.

.. Respondents

Mr.Devendranath S. Joshi, Advocate for applicant/appellant.

CORAM : A.S. CHANDURKAR, J.

DATE : 21ST NOVEMBER 2018

P.C.

CIVIL APPLICATION NO. 1850 OF 2014

1 Perused the contents of the application. Paragraphs 4 and 5 indicate the reason for the cause of delay. There is no reply filed opposing the said prayer. Hence, the delay in filing the Appeal stands condoned.

2 The civil application is allowed and disposed of.

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3 Heard the learned counsel for the appellant. In this appeal, the order passed under Section 140 of the Motor Vehicles Act, 1988 (the said Act) is under challenge. The ground of challenge as raised is that, the driver of the offending vehicle had a fake driving license

and on that ground, there was a breach of the policy.

4 It is found that the nature of defence, as raised, would require the appellant to adduce evidence. It is however submitted that now the claim filed under Section 166 of the said Act has been adjudicated. In view of the said development, this appeal can be disposed of by passing the following order :-

O R D E R

(i) The defence, as sought to be raised by the appellant that the driver of the vehicle had a fake driving license, is permitted to be raised in the appeal filed by the appellant challenging the adjudication under Section 166 of the said Act.

(ii) The points raised in the present appeal to that extent are kept open.

(iii) The appeal is accordingly disposed of. No costs. Pending civil applications also stand disposed of.

(A.S. CHANDURKAR, J.)